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MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2021/2022

UPP4612 – PROFESSIONAL PRACTICE I

(All sections / Groups)

1 December 2021

Reading Time : 9.15 a.m. – 9.30 a.m.
(15 Minutes)

Answering Time: 9.30 a.m. – 12.30 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 4 pages with 4 Questions only.
3. This paper consists of two parts. **PART A:** Answer only **ONE QUESTION.** **PART B:** Answer **ALL QUESTIONS.** All questions carry equal marks and the distribution of the marks for each question is given.
4. Students are only allowed to bring in CLEAN AND ORIGINAL COPY of Legal Profession Act (Act 166), Rules & Orders.

“Clean” is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

PART A: ANSWER EITHER QUESTION 1A OR QUESTION 1B**QUESTION 1A****Answer BOTH of this question**

(a) David is a practicing Advocate and Solicitor and well known in Ipoh town as a lawyer who is routinely involved in matrimonial issues. He has been close friends to Paul and Lucy since childhood. Paul and Lucy have been married for 15 years but recently Lucy found out that Paul is having an affair with another lady. David, being the close friend to Paul and Lucy is in the know about their broken relationship. Lucy has appointed David as her counsel for a divorce petition she filed against Paul. David also agreed to be the witness for the petition filed by Lucy.

Paul after has been served with the divorce petition, has engaged Messrs. Timothy & Co to act on his behalf. Messrs. Timothy & Co has been the legal advisor for Paul and Lucy with regard to their commercial transactions throughout their 15 years of marriage.

Evaluate the counsel's conduct in the above question in relation to Legal Profession (Practice and Etiquette) Rules 1978. Your answer must be supported with relevant case law.

(15 Marks)

(b) Harris has just started practice after completed his pupillage about 2 months prior. He recently represented a famous millionaire in a suit and the judgment is in favour of his client. Speaking to the press after the case, Harris made a statement that said "The success of this case is a testament that I am the best junior litigation lawyer in town."

After the case concluded, the millionaire who is very impressed with Harris's service offered him to work as a full-time legal advisor for the millionaire's company with a monthly salary of RM12,000.00. He accepted the offer whilst at the same time continues practising as an Advocate and Solicitor.

Examine Harris's conduct in relation to Legal Profession (Practice and Etiquette) Rules 1978 and Legal Profession (Publicity) Rules 2001.

(10 Marks)

Continued...

OR

QUESTION 1B

Black, newly called to the Malaysian Bar. He wishes to open his own firm in Melaka, physically and virtually. Black wants his firm's nameplate as big as 100 cm x 100 cm and displays outside his office and at the road leads to his office.

Black also wishes to include in his namecard, that his specialisation is in criminal matter since his master recognised him as an excellent pupil for criminal matters during his pupillage.

Black offered his brother to help him in managing his firm both physical and virtual. His eldest brother, Red is a computer engineer who lost his job due to the pandemic of Covid -19. Red agreed to manage the firm in the absent of Black since Red has nothing to do and not working.

Black, offered to his cousin sister, Purple to help him to bring in as many cases as she can, since she is a nurse, working in a private hospital. He promised Purple that she will receive a commission for every cases that she refers to Black's firm.

Black plans to launch his firm both physically and virtually soon. He is preparing for the ceremony, invitation cards, pamphlets to advertise his firm, with his photo on it. He is planning to wear his robe during the launching ceremony.

Identify ethical issues arising from the above facts with particular reference to the Legal Profession (Practice & Etiquette) Rules 1978 and decided cases (if any).

(Total: 25 marks)

Continued...

PART B : ANSWER ALL QUESTIONS**QUESTION 2**

Answer BOTH of this question

(a) “The function of Advocates and Solicitors Disciplinary Board (ASDB) is to adjudicate on complaints of professional misconduct by an Advocate and Solicitor.”

Based on the above, illustrate the step-by-step process of Summary Hearing by ASDB once it finds there is a merit in the complaint made against an Advocate & Solicitor.

(7 Marks)

(b) What is meant by solicitor’s undertaking and summary jurisdiction that a court has over solicitors?

Your answer must be supported with relevant case law.

(18 Marks)

(Total : 25 marks)

QUESTION 3

“A solicitor’s authority flows from his retainer. His authority to act is limited by any special condition imposed and supplemented by any special authority conferred by it.”

As per Edgar Joseph Jr FCJ, in Teh Eok Kee & Anor v Tan Chiah Hock & Anor [1995] 3 MLJ 613.

(a) Analyse the above statement with regard to the extent of counsels’ authorities in Malaysia.

(17 marks)

(b) Illustrate the consequence for a counsel who acts without authority. Support your answer with relevant authorities.

(8 marks)

(Total : 25 marks)

Continued...

QUESTION 4

“The offence of criminal contempt is committed when the interference with the administration of justice is in the nature of a public wrong, like preventing a judge from giving judgment, threatening a process server or destroying evidence in a case” (*Quoted from Jerald Gomez, “CONTEMPT OF COURT — FREEDOM OF EXPRESSION AND THE RIGHTS OF THE ACCUSED” [2002] 3 MLJ ccxli*)

Based on the above passage, illustrate the various types of criminal contempt. Your answer must be supported with relevant case law.

(Total: 25 Marks)

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